
SENATE BILL No. 415

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-67; IC 31-17-2.

Synopsis: Family law issues. Establishes a rebuttable presumption that joint legal custody is in the best interests of a child in dissolution of marriage cases. (Under current law an award of joint legal custody is discretionary with the court.) Provides that if a party seeks to rebut the presumption that joint legal custody is in the child's best interest, the court shall consider various factors to determine whether the presumption for joint legal custody is rebutted. Specifies that an award of joint legal custody does not require an equal division of the physical custody of the child. Makes conforming changes.

Effective: July 1, 2003.

Waterman

January 21, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 415

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 67. "Joint legal
3 custody", for purposes of IC 31-17-2-13 ~~IC 31-17-2-14~~, and
4 IC 31-17-2-15, means that the persons awarded joint custody will share
5 authority and responsibility for the major decisions concerning the
6 child's upbringing, including the child's education, health care, and
7 religious training. **However, the term does not require an equal**
8 **division of physical custody of the child, unless the parties agree to**
9 **such an arrangement.**
- 10 SECTION 2. IC 31-17-2-13 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. ~~The court may~~
12 ~~award legal custody of a child jointly if the court finds that~~ **There is a**
13 **rebuttable presumption that** an award of joint legal custody would be
14 in the best interest of the child.
- 15 SECTION 3. IC 31-17-2-15 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~In determining~~
17 ~~whether an award of~~ **If a party seeks to rebut the presumption**



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1 **concerning an award of** joint legal custody under section 13 of this
 2 chapter, ~~would be in the best interest of the child~~; the court shall
 3 consider it a matter of primary, but not determinative, importance that
 4 the persons awarded joint custody have agreed to an award of joint
 5 legal custody. The court shall also consider **the following factors:**

6 (1) The fitness and suitability of each of the persons awarded joint
 7 custody.

8 (2) Whether the persons awarded joint custody are willing and
 9 able to communicate and cooperate in advancing the child's
 10 welfare.

11 (3) The wishes of the child, with more consideration given to the
 12 child's wishes if the child is at least fourteen (14) years of age.
 13 ~~and~~

14 (4) Whether the child has established a close and beneficial
 15 relationship with both of the persons awarded joint custody.

16 (5) Whether the persons awarded joint custody:

17 (A) live in close proximity to each other; and

18 (B) plan to continue to do so. ~~and~~

19 (6) The nature of the physical and emotional environment in the
 20 home of each of the persons awarded joint custody.

21 SECTION 4. IC 31-17-2-14 IS REPEALED [EFFECTIVE JULY 1,
 22 2003].

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